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PUBLIC CONSULTATION DOCUMENT

Proposals to Modernize Canada's *Migratory Birds* Regulations to Improve Management of Hunting

March 2014

Canadian Wildlife Service

**CWS Migratory Birds Regulatory Report
Number 42**

Canada

For more information on migratory birds, please visit Environment Canada's Migratory Birds website: www.ec.gc.ca/nature/default.asp?lang=En&n=FDF836EF-1

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TABLE OF CONTENTS

WE WANT TO HEAR FROM YOU	4
MODERNIZATION OF CANADA'S <i>MIGRATORY BIRDS REGULATIONS</i> TO IMPROVE THE MANAGEMENT OF HUNTING	6
OBJECTIVES OF THE PROPOSED AMENDMENTS	6
1. WHAT IS HUNTING?	7
1.1 PURPOSE OF THE MIGRATORY BIRD HUNTING PERMIT.....	7
1.2 CLARIFY WHO MUST HOLD A MIGRATORY BIRD HUNTING PERMIT	10
2. POSSESSION AND ABANDONMENT OF MIGRATORY BIRDS.....	13
2.1 REGULATING POSSESSION.....	13
2.2 PROHIBIT THE ABANDONMENT OF MIGRATORY BIRDS	18
2.3 PROVE LEGAL OWNERSHIP	21
3. HUNTING METHODS AND EQUIPMENT	25
3.1 NEW APPROACH FOR AUTHORIZING NON-TOXIC SHOT	25
3.2 OPTION FOR ENSURING THAT SPECIES TAKEN CAN BE IDENTIFIED	28
3.3 USING BOWS	31
4. ISSUES RELATED TO HUNTING AND PERMITS	33
4.1 PERMISSION TO EXCEED POSSESSION LIMITS FOR COMPANIES TRAINING DOGS FOR RETRIEVING.....	33
4.2 DONATION OF HARVESTED MIGRATORY BIRDS TO FOOD BANKS OR EVENT DINNERS	36
SUMMARY	40

We want to hear from you

AS AN INDIVIDUAL OR ORGANIZATION WITH AN INTEREST IN THE MANAGEMENT OF MIGRATORY BIRD HUNTING, YOUR COMMENTS ARE REQUESTED ON THE PROPOSALS IN THIS DOCUMENT.

Overview

Environment Canada is proposing changes to the *Migratory Birds Regulations* to improve the management of hunting for migratory birds in Canada.

These regulations are managed by the Canadian Wildlife Service of Environment Canada. They were first drafted in 1917 and have been amended at intervals since then. The revision process currently underway responds to issues, concerns and challenges that have been raised over the past 20 years.

The full set of regulations is being examined, including those that control the hunting of migratory game birds (ducks and geese, cranes, gallinules, rails, mourning doves, murres, woodcock, snipe, and band-tailed pigeons).

Please note that these revisions are not about changes to bag limits or season dates; rather, we are looking at the main text of the Regulations, which provide the rules about such things as possession of migratory birds, labeling, transportation, wastage, processing and others. The Regulations can be found at:

<http://laws-lois.justice.gc.ca/eng/regulations/C.R.C., c. 1035/index.html>

Your feedback is essential

We are contacting you directly because of your particular interest in the management of hunting of migratory game birds. The Canadian Wildlife Service wants to know your thoughts and preferences on the proposed changes and recommendations, in order to be sure that all viewpoints have been considered before the final proposals are drafted.

As you read through this document and prepare your input, we ask that you keep the following questions in mind:

Do you agree with the recommended option being proposed?

- If so, what do you consider the strengths of the option to be?
- If not, why do you disagree with the proposed option?
 - What are your major concerns?
 - What refinements would you suggest?

These questions are by no means exhaustive and are not intended to limit the amount, depth or focus of your feedback. They are simply suggested to help guide your thinking, and to support us in achieving uniformity and alignment in implementing the feedback we receive.

Please note: Environment Canada will not be able to respond directly to all who provide comments, but rest assured that your input will be considered carefully in the decisions.

Please ensure that the Environment Canada receives your comments no later than June 9, 2014:

- By email to: Mbregs.Reports@ec.gc.ca; or
- By mail to: Director, Population Conservation and Management, Canadian Wildlife Service, Environment Canada, Gatineau, Quebec, Canada K1A 0H3.

Modernization of Canada's *Migratory Birds Regulations* to Improve the Management of Hunting

The landscape for hunting migratory birds has evolved considerably over the past 20 years in Canada: waterfowl populations are generally in good shape, there are now fewer hunters than before, and there is an established history and process for ensuring that harvests remain sustainable for future generations. Moreover, during the past decades a number of regulatory problems have arisen, including complaints and challenges identified by hunters, hunter organizations, migratory bird population biologists, and enforcement officials.

For these reasons the Regulations are being reviewed and revised. A number of amendments are being proposed to address the issues raised and to improve the management of hunting. The proposals in this document focus on areas where hunters would be directly affected by change. Minor issues that do not create an actual change on the ground for hunters (such as unclear/out-of-date wording or the order of sections) are also being dealt with, but are not discussed here.

Please note that this consultation is **not** about changes to bag limits or season dates. Rather, we are looking at the main text of the Regulations, which provide the rules about such things as possession of migratory birds, labeling, transportation, wastage, processing and others.

Objectives of the Proposed Amendments

The amendments to the Regulations that are being considered aim to:

- Provide the necessary tools to ensure conservation and maintain sustainable hunting of migratory birds.
- Recognize that hunting is a valued activity, and avoid unnecessary barriers and irritants to hunters.
- Encourage participation in hunting, and make equal hunting opportunities available to all who wish to participate.
- Maintain general public support for hunting.
- Ensure that the Regulations are clear, efficient, based on common sense and enforceable.

1. What Is Hunting?

1.1 Purpose of the Migratory Bird Hunting Permit

Background

No person may take a migratory bird except under the authority of a permit issued under the Regulations. A permit may be issued only for the purposes specified in the Regulations. Hunting permits, scientific permits and damage permits are examples of permits available.

The Regulations generally include a statement explaining the intended purpose for the permit—or at least a purpose that is implied, based on the clear limitations on how the birds taken under that permit may be used.

Historically, a survey sampling scheme—the National Harvest Survey—is the reason hunting permits were required beginning in 1966. The hunter registration allows a sample of hunters to be contacted to participate in an annual survey of their success during a hunting season. This information helps ensure that hunting remains a sustainable activity into the future. Prior to this time, hunting was handled as an exception to the general prohibition on killing migratory birds.

This permit is currently referred to as the Migratory **Game** Bird Hunting Permit. The Canadian Wildlife Service is considering shortening the name to address an administrative issue whereby the Regulations do not clearly consider thick-billed murres as game birds, yet they are legally hunted in Newfoundland and Labrador, and the permit is required for this hunt. The new shorter name is the Migratory Bird Hunting Permit.

The problem

The current regulations do not include a clearly stated purpose for birds taken under the Migratory Bird Hunting Permit. While there are references scattered throughout the Regulations to the permitted uses of birds taken, it is confusing to try to find them all.

Without a statement of purpose in the Regulations, there are misconceptions about: (a) what uses may be made of harvested birds; (b) who is required to hold a hunting permit; and (c) the permit's importance to the functioning of the National Harvest Survey.

Options

Table 1.1: Options for adding a purpose in the Migratory Bird Hunting Permit

OPTIONS	PROS	CONS
1. Status Quo – no purpose stated	- None	- Misconceptions remain about the permissible uses of harvested birds, who is required to hold a hunting permit, and the permit's importance to the functioning of the National Harvest Survey
2. Add a statement of purpose: migratory birds to be taken through hunting primarily for human consumption, and to provide a sampling base for a survey of hunter's take	- Clarifies the permissible uses of harvested birds, who is required to hold a hunting permit, and the permit's importance to the functioning of the National Harvest Survey	- None
RECOMMENDED		

Recommended solution – Option 2

KEY MESSAGES

The main difference between the status quo and the recommended option

Adding a statement of purpose makes it clear to hunters what the permit is to be used for and will help clarify who must hold this permit (see also Section 1.2).

Objectives addressed

- Increased clarity

HIGHLIGHT

The proposed option clarifies the purpose of the Migratory Bird Hunting Permit and the permit's importance to the functioning of the National Harvest Survey.

1.2 Clarify who must hold a Migratory Bird Hunting Permit

Background

Under the current regulations, the courts draw different conclusions about “who is hunting” and, by extension, who requires a Migratory Bird Hunting Permit. This is partly because of the overly broad definition of hunting in the current regulations, where:

“*hunt means chase, pursue, worry, follow after or on the trail of, lie in wait for, or attempt in any manner to capture, kill, injure or harass a migratory bird, whether or not the migratory bird is captured, killed or injured*”

People are free to walk around in areas where migratory birds are found, but once there is any indication that they are actively involved in the activities listed above, then they are considered to be hunting and are liable to the requirement for a hunting permit. They may be charged if they do not have a permit, whether or not they are carrying a firearm.

The activities that require possession of a hunting permit vary among provinces; there is no existing standard approach in provincial hunting legislation.

The problem

The overly broad definition makes it unclear as to who is required to hold a hunting permit, and may be interpreted as requiring permits for people conducting activities not normally considered to be hunting. The options presented below in Table 1.2 aim to clarify the general case. There are also clear exceptions to the permit requirement, and these are described below.

Options

Table 1.2: Options to clarify who must hold a Migratory Bird Hunting Permit, recognizing that there are exceptions for specific purposes

OPTIONS	PROS	CONS
<p>1. A permit must be held by any person who has the means to take a migratory bird and is attempting to do so</p> <p>RECOMMENDED</p>	<ul style="list-style-type: none"> Clearly focuses hunting on the activity that would be commonly understood by the public to be hunting Courts no longer make their own definition 	<ul style="list-style-type: none"> Enforcement officers must prove "attempting"
<p>2. A permit must be held by any person involved in a hunting activity either personally or by helping another person</p>	<ul style="list-style-type: none"> Easy to enforce 	<ul style="list-style-type: none"> Need policy document so that officials can answer questions from the public, but may not have force of law Courts continue to make their own definition Harvest survey database contains a lot of records of permit holders who are not actually hunting

Recommended solution -- Option 1

KEY MESSAGES

The main difference between the status quo and the recommended option

All of the activities that are currently prohibited would continue to be prohibited. However, under the recommended option, only the person taking the birds would require a hunting permit and continue to be subject to the daily bag limit, whereas under the status quo others assisting the hunter also require permits even if they are not hunting (for example, a hunting guide, a friend helping to retrieve downed birds, and so on).

Hunter registration is important to ensure hunting is a sustainable activity into the future

Under the recommended approach, we could be sure that only hunters would be contacted to voluntarily participate in the National Harvest Survey. This would increase cost-efficiency by being able to exclude helpers, observers and guides.

Exceptions to the permit requirement

Current exceptions to the requirement for a permit would remain clearly specified in the Regulations. For example, youths participating in Waterfowl Heritage Days would continue to be exempt from the permit requirement.

In addition, the Canadian Wildlife Service is considering changing the language to make it easier to add new exceptions in future, when permit requirements are relevant to hunter apprenticeship programs.

A family hunting permit

The Canadian Wildlife Service is also considering allowing a “family hunting permit” that would allow hunting by immediate family members (permit holder, his/her spouse and children under the age of majority) under one permit, with one shared daily bag limit.

Objectives addressed

- Hunter preferences are addressed
- Increased clarity

HIGHLIGHTS

The proposed solution clearly focuses on the activity that would be commonly understood by the public to be hunting. In other words, anyone who has the means to take the migratory bird, and is trying to take it, is hunting.

2. Possession and Abandonment of Migratory Birds

2.1 Regulating possession

Background

Setting limits for possessing birds¹ taken in hunting was originally intended as a way to regulate harvest.² Possession limits were first introduced in Canada in 1931, during a period when fall flights and breeding populations were diminishing because of prolonged and severe drought. The limits have remained in place since that time and apply everywhere, with the exception of residents of the Northwest Territories and Nunavut because of the very low harvests in those regions.

Even though possession limits are seen as an important part of the Regulations, they are not considered to be the primary way to regulate the harvest of migratory game birds. Rather, the manipulation of daily bag limits,³ the timing of seasons (open and close dates), and the length of open season have significantly more influence on limiting the harvest of most species. These—along with the time, effort and costs associated with processing, transporting, labeling, and storing the birds—are the factors that actually exert control on the harvest.

In reality, imposing possession limits usually does not result in the intended conservation benefits for several reasons: hunters can consume harvested birds rapidly, allowing renewed opportunity to hunt; the current regulations contain provisions that allow unlimited gifting of game birds from hunters to their friends and families (the gift recipients are bound by the possession limit as well), resulting in a potentially unlimited take over the course of a season; and the vast majority of hunters never succeed in harvesting a full possession of birds in a single hunting season. For all these reasons, possession limits do not represent an efficient tool for controlling harvest.

¹ The possession limit is the total number of a harvested migratory bird species a hunter is allowed, whether in his possession or temporarily that of another person. Birds permanently gifted to someone else are no longer in the possession limit of the hunter who harvested them.

² The background to this section is based primarily on *The concept of possession and possession limits in the Migratory Birds Regulations – past, present and future use and value for migratory game bird conservation in Canada*. Prepared by Canadian Wildlife Service – Wildlife and Landscape Science Directorate Waterfowl Technical Committee. November 14, 2011. The full report is available, in English and French, on request.

³ The daily bag limit is the number of migratory birds that may be harvested by an individual on a single day.

The problem

Possession limits—as they are conceived at present—do not result in the conservation benefits or control of harvest as originally intended. They add complexity and uncertainty, and appear to be enforceable in only limited circumstances.

On the other hand, there are other functions served by possession limits; in some circumstances, they may contribute to prevention of wastage, maintain the perceived value of the resource and help to prevent illegal commercialization. Also, there are circumstances when some form of a possession limit is needed to control harvest, especially when there is a strong concern for conservation of a species.

On balance, possession limits have a place in the Regulations, but they need to be clarified, simplified and modified to maximize their relevance and usefulness.

Options

The table below presents a range of optional approaches to improve management of possession of migratory birds taken in hunting. The objective is to achieve “yes” in each cell.

Table 2.1: Possession options

Objective of a possession limit	Harvest control	Maintain resource value	Encourage use of birds taken	Prevent wastage	Help to prevent illegal commercialization	Cost-effective for government
OPTIONS						
1: Status Quo – each bird taken counts in the possession limit until used, given away or disposed of	Minor	Mostly	No	No	No	Yes
2: Quota System – each bird taken counts until next season	Yes	Yes	No	No	Yes	No
3: Each bird taken counts in the possession limit only	No	Yes	Yes	No	No	Yes

until it is "processed"

4: Each bird taken counts only until it arrives at a residence (also known as a "field possession limit")	No	Maybe not	No	No	No	Yes
5: No possession limit	No	No	No	No	No	Yes

Recommended solution – Combination of Options 2 and 3

No single option addresses all objectives on its own. For this reason, the Canadian Wildlife Service is leaning toward including both Options 2 and 3 as tools in the Regulations, to be triggered when appropriate and, in addition, incorporating a prohibition against wastage (described further in the following Section 2.2). In this way, all objectives would be addressed.

Under this approach, all species would be managed according to one of two tools provided by the *Migratory Birds Regulations*: the possession by a person of a migratory bird would be managed either by a possession limit or a quota system. Species would be managed by a possession limit in effect until processed (as described in Option 3), except in the rare future case when the available harvest is very small, such that the quota system (Option 2) could be triggered.

KEY MESSAGES

The main difference between the status quo and the recommended option

The main difference from the current regulations on possession limit is that, under the new proposal, once birds are processed they would no longer count as part of an individual's possession limit.

In addition, a quota system is being considered as an alternative to manage harvest when a daily bag limit of even one bird would lead to excessive harvest.

Definition of the "possession limit" under the recommended option

The possession limit would be the number of birds of a species that a person may have in his or her possession at any given time and in any given place. This would include at the hunting site, at home or on the road, or labeled and in the temporary custody of someone else. The possession limit would be in effect only until those birds are processed.

The daily bag limit would still apply, even if birds are processed on the day that they are taken.

Definition of "processed"

Under the revised concept, a bird would be considered "processed" once it was:

- Preserved for future use; that is, when the viscera are removed and the bird is fully plucked or when the edible portions are removed from the carcass and it is frozen, cooked, canned or smoked; or
- Made into a processed food such as sausages or jerky; or
- Mounted for display—for example, by a taxidermist.

Where birds could be processed

The processing would have to occur at a residence (either permanent or temporary, which includes a hunting camp or hotel) or at non-mobile processing facilities. To retain enforceability of the daily bag limit—which is the key harvest control—processing birds while still in the field would not be allowed unless the birds are being eaten immediately at that location.

Definition of "quota system"

A quota system would be used only when there was a very strong need to control a limited harvest. For example, if there were a limited harvest available for a particular species, such that even a daily bag limit of one bird could lead to excessive harvest, a quota system could be used to cap the number of birds harvested.

The quota system is seen as a potential tool for future, but not immediate, use. The system could take various forms. It might, for example, be a limit on the number of birds that could be taken during one season; it could be a system to limit the number of hunters managed by tags; it might take the form of registration (a 1-800 number); or it could be managed by hunter check stations in specified areas.

The concept of a quota system is familiar to most hunters; for example, provincial governments routinely use a tag system to manage the hunt of deer.

Objectives addressed

- Hunter preferences are addressed, by clearly encouraging processing of birds (for example, into sausage)
- Increased clarity regarding which birds count in the possession limit
- Public support for hunting is maintained, by encouraging use of birds taken

HIGHLIGHT

Many questions arise in the current regulations, such as "Is a taxidermy mount part of the possession limit?" and "Are sausages included in the possession limit?" and "Do birds taken last year count?"

Whereas the answers to all of these questions are arguably unclear in the current regulations, under the new proposed concept the answer is clearly "No, processed birds do not count as part of the possession limit."

2.2 Prohibit the abandonment of migratory birds

Background

Some hunters retrieve and then dispose of birds without using them in order to evade bag and possession limits, thus enabling them to continue hunting. This practice is often referred to as wastage.

There are differences in opinion regarding what constitutes “wasted” birds. Discussions with stakeholders across the country have revealed that perceptions of wastage—both its definition and its parameters—vary widely among regions and cultures. For example, some people consider the practice of “breasting” (taking only the breast meat and discarding the rest of the carcass) as being wasteful, whereas this is an acceptable practice for others.

Although the current regulations do require that downed birds be retrieved, they do not explicitly ban wastage of birds once they are retrieved. While wastage is prohibited in a variety of ways under provincial legislation, those regulations are not consistent across the country, and in many cases apply only to species of game birds under provincial jurisdiction (for example, grouse and ptarmigan).

The problem

Wastage is a conservation issue, potentially allowing some hunters to take excessive numbers of birds. From a regulatory perspective, wastage of migratory birds taken under a hunting permit is contrary to the intent and principles of the *Migratory Birds Convention Act, 1994*.

Wastage is also a public perception issue. Even though it is not a common practice, killing birds and then throwing them away without using them can contribute to a poor image of hunters in the eyes of the non-hunting public, and affects hunters’ reputations as conservationists.

As indicated in the previous Section 2.1, a national prohibition on wastage is needed to complete the framework for the new concept of possession. Given the diverse views of “wastage,” it appears a consensus definition for the whole of Canada may be challenging.

Options

Table 2.2: Options for prohibiting wastage

OPTIONS	PROS	CONS
1. Status Quo – rely on provincial law	- Responds to regional variation in what constitutes wastage	- Wastage cannot be prosecuted reliably, migratory birds are not always covered under provincial law, conservation issue remains, and public perception is not addressed
2. Prohibit abandonment of carcasses contrary to the purpose of the permit under which the birds were taken RECOMMENDED	- Captures the most blatant wastage situations - Responds to regional variation in what constitutes wastage	- Less blatant instances potentially not captured
3. Prohibit wastage	- If feasible to create a national definition of what constitutes wastage, would capture most instances of wastage	- Consensus definition of wastage not possible - Value judgment that varies by region and culture

Recommended solution – Option 2

KEY MESSAGES

The main difference between the status quo and the recommended option

It would be prohibited to kill birds and then dispose of them without their being used according to the purpose of the hunting permit.

Abandonment and gifting

Birds taken under a hunting permit may be given as a gift to someone else, whether or not that person holds a hunting permit. However, the birds must be accepted as a gift by the recipient. Abandonment of migratory birds on someone else's property would not be

considered a gift. The recipient of the gift would also be bound by the prohibition against abandonment.

Objectives addressed

- Improved harvest control
- Public support for hunting is maintained
- Responds to public requests for wastage to be prohibited

HIGHLIGHT

A prohibition on abandonment of migratory birds allows enforcement of the most blatant cases of wastage—an issue of conservation concern and poor public perception of hunters.

2.3 Prove legal ownership

Background

Under the Regulations, any person may own—or have temporary custody of—migratory game birds that were taken legally under a hunting permit. This applies to birds that were taken by the person with the permit or by someone else, provided that whoever took the bird did so in accordance with the law. Everyone is subject to the possession limit.

The new concept of possession as described in section 2.1 of this document, if adopted, is that there would be no possession limit once the bird is processed. Even so, each person must still be able to demonstrate that the bird is legally in his or her possession.

When birds are still in the hands of the hunter who took them, the hunting permit provides proof that it was taken legally. Once the birds leave the custody of the person who hunted them, the requirement is for individual birds to be labelled with the hunter's name, address, signature, permit number and the date the bird was harvested. This is the case even if the birds are only temporarily in someone else's custody—for example, at the butcher or taxidermist.

The problem

Having to label each and every individual bird is a long-standing irritant for hunters, guides and people receiving the birds. It is especially difficult when the birds are used to make processed foods (sausages, jerky), as well as when large numbers of birds need to be transported all at once. Moreover, the requirement to provide labels at all is considered by some to be an imposition.

Options

Table 2.3: Options for proving legal ownership

OPTIONS	PROS	CONS
<p>1: The Regulations remain as now, but also allow packages of birds, rather than just individual birds, to be labelled; onus of proof remains on custodian to prove legal taking. The Regulations specify, as they do now, the information that must be provided, including a signature.</p> <p>RECOMMENDED</p>	<ul style="list-style-type: none"> - Removes the irritant of having to label every individual bird - Information needs are clear 	<ul style="list-style-type: none"> - Onus of proof is on the custodian, who is less likely to be aware of the Regulations (but this can be addressed through a future compliance promotion effort)
<p>2: The onus of proof remains on the custodian, but the means of proof of legal taking is unspecified (e.g. could be the label described above, or letter from the hunter who harvested the bird, or something else).</p>	<ul style="list-style-type: none"> - Removes irritant of having to label every individual bird - Custodian choice as to how to prove legal ownership 	<ul style="list-style-type: none"> - Time delays for enforcement officers to verify that the bird was taken legally - Arguments over what constitutes sufficient proof - Hunter may not admit to having taken the birds
<p>3: Also allow packages of birds to be labelled, rather than just individual birds, and the hunter is required to label the bird or package of birds/food. As in option 1, the Regulations continue to specify information that must be provided.</p>	<ul style="list-style-type: none"> - Removes irritant of having to label every individual bird - Information needs are clear - Puts onus on the hunter 	<ul style="list-style-type: none"> - Custodian or recipient still needs to know that this information should be provided

Recommended solution – Option 1

KEY MESSAGES

The main difference between the status quo and the recommended approach

Under the recommended approach, the label may be applied to packages of migratory birds, or food products made from migratory birds.

However, prior to processing, the birds must not be frozen together in such a way that they cannot be identified as individual birds.

When are labels required?

Labels are required as soon as the migratory bird leaves the custody of the hunter who killed it, even if only temporarily.

Labels must be present when the birds are at, are going to, or are returning from the butcher, the sausage maker, the taxidermist and so on. In addition, labels are required when the bird has been accepted by someone permanently as a gift.

What information must be included on the label?

The label must include:

- the name and address of the owner
- the number of the Migratory Bird Hunting Permit under which the bird was taken, as well as the signature of the permit holder

Recognizing that packages of food products could contain meat from birds taken on different days, the label would no longer require the date on which the birds were killed.

Objectives addressed

- Hunter preferences are addressed
- Increased clarity
- Enforceability is maintained

HIGHLIGHT

Labels may be applied to packages of individually identifiable birds, or to packages of food products made from migratory birds. Labels are required as soon as the birds leave the custody of the person who harvested them, even if only temporarily. The information required on the label is clearly specified in the Regulations.

3. Hunting Methods and Equipment

3.1 New approach for authorizing non-toxic shot

Background

The types of non-toxic shot that may be used for hunting migratory birds are listed in the *Migratory Birds Regulations*. There are currently eight definitions of approved shot types, and each type is specified by its elemental composition.

When a manufacturer wants to add a new type of non-toxic shot to the list, a comprehensive regulatory process must be followed. This process includes (a) testing the toxicity of shot samples; (b) having Environment Canada scientists evaluate and approve the samples; and (c) formally amending the Regulations. This entire process can take anywhere from three to five years, yet many new shot compositions comprise ingredients that have already been evaluated for toxicity.

The problem

The process of adding each new type of non-toxic shot presents a significant administrative burden in terms of time and resources. Also, it must be asked whether it is reasonable for the industry to expect to wait up to five years to register a new non-toxic shot.

Options

Table 3.1: Options considered for certifying new non-toxic shots

OPTIONS	PROS	CONS
1. Status Quo – Testing all new shots is required, with subsequent regulatory process	<ul style="list-style-type: none"> - Hunters and enforcement officers refer to the <i>Migratory Birds Regulations</i> for a list of approved shots 	<ul style="list-style-type: none"> - Administratively burdensome, lengthy process
2. Convert to a generic definition that would comprise the elements already tested for toxicity, and require manufacturers to label the box “non-toxic for birds”	<ul style="list-style-type: none"> - Would automatically accommodate most new non-toxic shots being developed - Eliminates the current process for manufacturer submission and testing the toxicity of each new candidate shot - Testing and regulatory process would only be required for any proposed shot falling outside the boundaries of the general definition - Labelling requirement increases certainty for hunters, in absence of a regulatory list 	<ul style="list-style-type: none"> - No list of approved shots for hunters or enforcement officers to refer to
RECOMMENDED		

Recommended solution – Option 2

KEY MESSAGES

The main difference between the status quo and the recommended approach

Under the recommended approach, hunters would be certain that the shot they purchase is certified as non-toxic, and the approval process would be much quicker for manufacturers. The proposed definition would not completely eliminate the need for possible future amendments to the *Migratory Birds Regulations*, but it would likely reduce that need considerably.

Proposed new definition of “non-toxic shot”

“Any shot composed of up to 100% by weight of iron, tungsten, tin, or bismuth, or any combination of these four metals; and not more than 45% copper, and not more than 35% nickel, and not more than 1% of any other element, and any amount of Nylon 6 or 11 or ethylene methacrylic acid copolymer.”

Labelling of shot

Manufacturers would be required to label the box “non-toxic for birds.”

Objectives addressed

- Clarity
- Regulatory efficiency

HIGHLIGHT

The proposed option—which includes redefining non-toxic shot, along with labelling the box as “non-toxic for migratory birds”—reduces the administrative burden of unnecessary toxicity testing and makes it easier for hunters to know which shot types have been approved.

3.2 Option for ensuring that species taken can be identified

Background

Regulations concerning the daily bag and possession limits and open season dates differ according to each species. This allows regulations to be designed specifically to ensure conservation of species that are at low levels, and also to permit more opportunity for hunting species that are at high levels. Because the Regulations vary by species, it is important that enforcement officers are able to identify the birds taken. That is why the current regulations require hunters to leave a fully feathered wing on each carcass, as species can be easily identified using the colour patterns on the wing.

The problem

Environment Canada has received numerous complaints about the current requirement. Many hunters have requested permission to leave the bird's head—rather than a feathered wing—attached to the carcass, as the argument can be made that the species of migratory birds can be identified equally well from a fully feathered head as from feathers on a carcass.

In the United States, hunters are permitted the option of retaining a fully feathered head attached to the carcass, and there have been no problems reported with this practice.

The main argument relates to the size of feathered wings of geese and the difficulty this presents for transportation. Hunters are also concerned about contamination that might result from the difficulty of preventing the feathered wing from contacting the rest of the bird once it has been plucked and cleaned.

Options

Table 3.2: Options considered for species identification

OPTIONS	PROS	CONS
1. Status quo – must retain a fully feathered wing attached to the carcass, until processing	- Species is readily identifiable	• Hunters continue to find wings too bulky to transport, especially for goose species
2. Add a hunter's choice option to retain a fully feathered head attached to the carcass, instead of allowing only a wing	- Hunters have been requesting the option to instead retain a fully feathered head	• May require new training for enforcement officers
RECOMMENDED		

Recommended solution – Option 2

KEY MESSAGES

The main difference between the status quo and the recommended option

The hunter would have the choice of retaining a fully feathered head or a wing attached to the carcasses.

The wing or head may be removed for processing

Birds that have been plucked and cleaned but not preserved in any other way (e.g. by freezing or cooking) are **not** considered processed, and so must retain the head or wing attached.

Once the bird is processed (see definition in Section 2.1), the head or wing may be removed.

Why not use DNA testing?

New techniques for field testing may become available in the future, but DNA testing is not feasible at this time.

Objectives achieved

- Hunter preference is addressed

HIGHLIGHT

As requested by hunters, they could choose whether to retain a fully feathered wing or head attached to the carcass.

3.3 Using bows

Background

Currently, the Regulations allow hunting of migratory birds with a long bow. A “long bow” includes a recurve bow and a compound bow.

The problem

Some hunters are requesting that the Canadian Wildlife Service add cross bows as a legal means of hunting. However, others believe that hunting with bows of any kind should be prohibited because insufficiently powerful equipment or inappropriate types of arrows or bolts can result in crippling of birds. Images posted across the Internet of birds still living with arrows stuck through their bodies do nothing to alleviate negative public perception of hunting.

If instances of crippling are to be reduced, it is important to ensure that requirements for bows—regardless of their type—are appropriate for hunting waterfowl.

Options

Table 3.3: Options considered for a new concept of using bows

OPTIONS	PROS	CONS
1. Continue to allow use of long bows—but add cross bows	- Deals with the inconsistency of not allowing cross bows for no apparent reason	- Does not address crippling issues
2. Continue to allow use of long bow—but add cross bows AND specifications to ensure killing power for all bows	- Addresses crippling issue	- None
RECOMMENDED		
3. Prohibit use of bows for hunting migratory birds	- Eliminate bows as a source of crippling	- Eliminate something hunters enjoy instead of fixing it

Recommended solution – Option 2

KEY MESSAGES

Ensure that bows are sufficiently powerful

Under Option 2, the Regulations would be amended to include a new description of allowable bows. The requirements are proposed as follows:

A bow (long, recurve or compound) must have a minimum draw weight of 18 kg or 40 lb and use an arrow with a broadhead with at least two sharp blades a minimum of 22 mm or 7/8" wide. For cross bows, the requirement is for a minimum draw weight of 45 kg or about 100 lb, and a bolt with a broadhead a minimum of 22 mm or 7/8" wide with at least two sharp blades.

Matching provincial requirements

Where provincial requirements for bows used for hunting game birds are different than those described above, we could consider an option to adopt provincial specifications. In general, the specifications in provincial regulations for hunting turkeys match very well with what would be needed to hunt geese.

Thus, the proposal (above) adopts the minimum of the provincial requirements, ensuring that hunters would not have to purchase new additional archery equipment to hunt migratory birds.

Objectives achieved

- Addresses the issue of crippling
- Deals with the current inconsistency of not allowing cross bows for no apparent reason
- Meets the requests of hunters and increases their enjoyment of hunting

HIGHLIGHTS

The proposed approach responds to the request from hunters to allow use of cross bows, and also reduces the potential for crippling.

4. Issues Related to Hunting and Permits

4.1 Permission to exceed possession limits for companies training dogs for retrieving

Background

Companies that train dogs to be hunting retrievers want to use carcasses of migratory birds as part of their training process. Because we want to encourage hunters to have well-trained hunting dogs, the current regulations provide special possession limits for these companies. The *Migratory Birds Regulations* specify that training companies may hold up to 200 fully feathered carcasses gifted by hunters and taken legally under a Migratory Bird Hunting Permit.

Carcasses used to train dogs are not considered to be "processed," and so—even under the new proposed concept of possession described in section 2.1—the carcasses would continue to count as part of an individual's or company's possession limit.

The problem

Complaints are received from hunters and from the general public when large numbers of restricted species (i.e. 200 black ducks) are used for training. Given the proposed relaxation of rules related to possession limits, we should ensure that exceptions such as this, when they exist, can be managed properly.

Options

Table 4.1: Options considered for managing possession of birds by retriever-training corporations

OPTIONS	PROS	CONS
1. Status quo – Continue to allow 200 birds in possession by corporations. Require birds to be obtained from hunters, but continue to place no restrictions on species composition and ask for no reporting requirements.	- No change for existing corporations	- No opportunity to manage species composition - Does not address public perception issue
2. Continue to allow up to 200 birds in possession, but use only species that are not subject to restricted daily bag limits, and require companies to register with the Canadian Wildlife Service and submit an annual report. Continue to require that birds be obtained from hunters.	- Opportunity to manage species composition; ensures no conservation risk - Addresses public perception issue - Clarity for enforcement officers	- The companies engaged in this activity have more requirements than previously
RECOMMENDED 3. Develop a regulation to implement measures in option 2, but with no registration or reporting requirements. Continue to require that birds be obtained from hunters.	- Opportunity to manage species composition; ensures no conservation risk - Addresses public perception issue	- Unclear for enforcement officers - Difficult to ensure that species restrictions are understood and respected

Recommended solution – Option 2

KEY MESSAGE

Ensures that exceptions to the possession limits can be managed

Under Option 2, the Regulations would ensure that there is a mechanism to limit the species that may be used (for example, not more than 10 black ducks among the 200 birds).

Companies proceed as at present, but register with the Canadian Wildlife Service

Under the recommended approach, companies proceed as previously, but are required to register and abide by species composition requirements.

Objectives achieved

- Addresses the perception that the exception for dog training companies could be of conservation concern
- Continues to allow dog training companies to use migratory bird carcasses in excess of possession limits
- Clear and enforceable

HIGHLIGHTS

The proposed approach manages exceptions to the possession limit that currently allows companies that train dogs as retrievers to use migratory bird carcasses.

4.2 Donation of harvested migratory birds to food banks or event dinners

Background

The Canadian Wildlife Service receives requests to permit the donation of birds from hunters for consumption at food banks and fundraising events. There are a number of regulatory issues related to these requests. First, while a hunter is permitted to give away birds taken legally under a hunting permit, there is currently no exception in the Regulations that would allow any person or group to exceed possession limits for this purpose. This means that no recipient, including an organization like a food bank, could hold more than one possession limit. However, if the new concept of possession proposed in Section 2.1 of this document were adopted, then once birds are processed they would no longer count in the possession limit; in other words, the recipient of processed birds would not be restricted by a possession limit. Therefore, processed birds taken legally under a hunting permit could be donated and received.

The Canadian Wildlife Service also receives requests to allow donation of birds taken under Damage or Danger permits. These are permits that may be issued by the Canadian Wildlife Service to landowners or land managers who are suffering serious property damage caused by migratory birds. In the majority of cases, damage is caused by game species of migratory birds. When numbers are killed to reduce damage, the permit holders sometimes wish to donate them for use as food.

The problem

There are two remaining barriers: 1) the Regulations do **not** specify that birds killed under another type of permit (for example, a permit to implement management strategies for birds causing property damage) may be donated by the permit holder for use by someone else; and 2) when money changes hands or there is some other form of reimbursement, it could be viewed as sale of migratory birds, which is prohibited.

One of the key reasons for the creation of the 1916 Migratory Birds Convention was to stop market hunting. Conservation officials wish to avoid recreating markets for migratory birds, and at the same time, would like to promote the use of birds killed under other permits (primarily Canada Geese) for purposes of population control, which also includes birds taken during special conservation seasons of overabundant species (Snow Geese). With stringent conditions placed on the permission to donate birds, it would be possible to ensure that the prohibition on sale of migratory birds would not be circumvented.

Other laws, both federal and provincial, related to food safety may apply, and it will remain the responsibility of hunters and organizations to understand those rules in each province. The purpose of this proposal is to remove existing barriers from the *Migratory Birds Regulations*.

Options

Table 4.2: Options considered for managing donation of birds for consumption at food banks or fundraising dinners

OPTIONS	PROS	CONS
1. Status quo – no donation or acceptance of migratory birds for consumption or other use at fundraising events	- No market hunting for migratory birds created	- Birds taken for population control under other permits potentially wasted
2. Migratory birds killed under permits other than hunting permits (includes overabundant species) may be donated and used at food banks and fundraising events under a registration system, with requirements to use the proceeds for charitable purposes, and other requirements to prevent sale	- Avoids waste of birds killed because they were causing damage and/or danger	- Risk of creating a market for migratory birds, but little conservation concern because species taken under other permits are generally super-abundant
3. In addition to 2 above, migratory birds—those not subject to restrictions on the daily bag limit—taken under a hunting permit may be donated and used at food banks or fundraising events, under a registration system with requirements to use the proceeds for charitable purposes, and other requirements to prevent sale	- In addition to 2 above, any hunted species for which the harvest is not being managed near its maximum (i.e. subject to restrictions on the daily bag limit) may be used - Responds to requests from non-governmental organizations	- Risk of creating a market for migratory birds - The <i>Migratory Birds Regulations</i> aim to support hunting, but not for market purposes
RECOMMENDED		

<p>4. In addition to 2 above, any migratory birds taken under a Hunting Permit may be donated and used at food banks or fundraising events under a registration system, with requirements to use the proceeds for charitable purposes, and other requirements to prevent selling</p>	<ul style="list-style-type: none"> - Responds to requests from non-governmental organizations 	<ul style="list-style-type: none"> - Risk of creating a market for migratory birds, including species with harvest restrictions in place
		<ul style="list-style-type: none"> - The <i>Migratory Birds Regulations</i> aim to support hunting, but not for market purposes

Recommended solution – Option 3

KEY MESSAGES

Birds killed under other permits would not be wasted

Under the recommended option, migratory birds taken under other permits could be donated by the permit holder and used by food banks and at fundraising events held by eligible organizations. This would be primarily Canada Geese, and in the case of the overabundant species regulations primarily Snow Geese; both are abundant species and there is no conservation concern at present.

Birds could be served at fundraising events under certain restrictions

Under the recommended approach, birds could be served at fundraising events, under restrictions that may include the following: 1) only species that are not subject to restricted daily bag limits may be used; 2) the donating individual may not receive any benefits that could be construed as payment (e.g. tax receipt, re-imbursement of expenses, free ticket, free membership, discounts or any other form of remuneration); 3) a food bank must give—not sell—the food; and 4) Environment Canada would not be responsible for certifying or verifying food safety.

Other legislation may also apply

Any other relevant federal or provincial regulations outside the jurisdiction of the *Migratory Birds Regulations* would continue to apply (federal or provincial food inspection regulations).

Objectives achieved

- Birds taken under other permits are not wasted
- Responds to public wishes

HIGHLIGHTS

The proposed approach responds to the public request that migratory birds could be donated to and used by eligible organizations.

Summary

The recommended provisions would act together to control harvest when needed, encourage use of the birds taken, remove unnecessary irritants for hunters, improve clarity for enforcement and maintain the perceived value of the resource in the eyes of the public.

The key changes to the Regulations described in this document rely on the interaction among:

- i) A new concept of possession;
- ii) A new incentive to process birds, which removes them from the possession limit once processed;
- iii) Introduction of a statement of the purpose of the Migratory Bird Hunting Permit; and
- iv) A prohibition against abandonment of birds contrary to the purpose of the hunting permit.

Other changes would ensure that:

- Hunters know which types of shot being sold are certified non-toxic;
- Hunters have a choice of ways to demonstrate what species they have taken;
- Bows are regulated for use in hunting migratory birds;
- Retriever-training companies may continue to exceed possession limits; and
- Migratory birds may be donated and received for use by charitable organizations.

REMEMBER – WE WANT TO HEAR FROM YOU

Please ensure that Environment Canada receives your comments on these proposals no later than June 9, 2014:

- By email to: Mbregs.Reports@ec.gc.ca; or
- By mail to: Director, Population Conservation and Management, Canadian Wildlife Service, Environment Canada, Gatineau, Quebec Canada K1A 0H3.